

Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUE

The issue is whether appellant has met his burden of proof to establish a left knee condition causally related to the accepted July 24, 2020 employment incident.

FACTUAL HISTORY

On July 24, 2020 appellant, then a 55-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his left knee when he jumped from the street to the sidewalk in an effort to clear a large puddle while in the performance of duty. He asserted that, when he landed, he experienced a sharp pain in his left knee. On the reverse side of the claim form, the employing establishment contended that appellant was not in the performance of duty when he was injured, as he had called out sick earlier that week due to a knee injury. It further indicated that his injury was a result of misconduct. Appellant stopped work that same day and returned to part-time modified-duty work on September 14, 2020.

OWCP received a July 24, 2020 x-ray of the left knee which revealed no fracture or other acute osseous findings.

In a July 28, 2020 letter, the employing establishment controverted appellant's claim, noting that he had previously called in sick on July 21, 2020 due to left knee pain and had been wearing a knee band every day at work. OWCP also received a position description for a city carrier.

In a July 28, 2020 report, an unidentifiable healthcare provider noted that appellant was seen that day at urgent care and excused him from work for the period July 24 through 29, 2020.

In a July 31, 2020 work status note, Dr. Paul Kubiak, a Board-certified orthopedic surgeon, diagnosed left knee contusion and advised that appellant was unable to work. In a duty status report (Form CA-17) of even date, he diagnosed left knee contusion and provided work restrictions.

In an August 18, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that, following the December 1, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

In medical reports dated July 31, 2020, Dr. Kubiak noted that appellant presented with left knee pain after injuring his left knee at work on July 24, 2020. He recounted that appellant experienced a sharp pain after he leapt over a puddle/object on a rainy day. Dr. Kubiak noted that appellant reported a history of left knee arthroscopy with a meniscus tear, but that he experienced minimal symptoms prior to the July 24, 2020 employment incident. He conducted a physical examination, reviewed the left knee x-ray, and diagnosed left knee pain with contusion and a possible meniscus tear.

An August 22, 2020 magnetic resonance imaging (MRI) scan of the left knee demonstrated an oblique tear involving the posterior horn and body of the medial meniscus extending to the inferior surface, as well as small knee joint effusion and mild osteoarthritis in the anterior compartment.

In an August 19, 2020 work capacity evaluation (Form OWCP-5c), Dr. Kubiak diagnosed a left knee medial meniscus tear and provided work restrictions.

In a September 11, 2020 medical report, Dr. Kubiak noted that appellant continued to experience left knee pain and occasional locking. He conducted a physical examination, reviewed an MRI scan and diagnosed left knee pain with a medial tear and recommended physical therapy treatment. In a Form CA-17 of even date, Dr. Kubiak diagnosed a left knee meniscus tear and provided work restrictions.

On September 14, 2020 the employing establishment offered appellant a modified-duty assignment.

In a September 15, 2020 attending physician's report (Form CA-20), Dr. Kubiak reported that appellant injured his left knee after stepping over an object and landing awkwardly at work. He diagnosed a left knee medial meniscus tear.

By decision dated October 2, 2020 OWCP denied appellant's traumatic injury claim, finding that the medical evidence submitted was insufficient to establish causal relationship between his diagnosed left knee condition and the accepted July 24, 2020 employment incident.

In an October 23, 2020 medical report, Dr. Kubiak again noted that appellant sustained an injury on July 24, 2020 when he leapt over a puddle and landed directly on his left leg with a sharp pain. He conducted a physical examination and diagnosed left knee pain with a medial meniscus tear. Dr. Kubiak opined that the accepted July 24, 2020 employment incident was the "direct cause of the left knee damage, including the meniscus tear, as well as associated increased pain from inflammatory conditions, including irritation of the underlying cartilage injury." In a work status note of even date, he advised that appellant could work with restrictions.

On November 3, 2020 appellant requested reconsideration.

By decision dated December 1, 2020, OWCP denied modification of its prior decision dated October 2, 2020.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,⁶ and that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁷ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁸

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.⁹ There are two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.¹⁰ The second component is whether the employment incident caused a personal injury.¹¹

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹² A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.¹³ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition, and appellant's specific employment incident.¹⁴

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation,

⁵ *Supra* note 3.

⁶ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

¹⁰ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹¹ *E.M.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

¹² *S.S.*, *supra* note 9; *Robert G. Morris*, 48 ECAB 238 (1996).

¹³ *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁴ *Id.*

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁵

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted July 24, 2020 employment incident.

In an October 23, 2020 medical report, Dr. Kubiak noted that appellant injured his left knee when he leapt over a puddle and landed directly on his left leg on July 24, 2020. He diagnosed left knee pain with a medial meniscus tear. Dr. Kubiak opined that the accepted employment incident was the “direct cause of the left knee damage, including the meniscus tear, as well as associated increased pain from inflammatory conditions, including irritation of the underlying cartilage injury.” However, this report is conclusory. The Board has held that a medical opinion is of limited value if it is conclusory in nature.¹⁶ A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹⁷ Without this explanation, Dr. Kubiak’s October 23, 2020 medical report is, therefore, insufficient to meet appellant’s burden of proof.

Dr. Kubiak, in his medical reports dated July 31, 2020, noted that appellant reported to him that he had a history of an arthroscopy in the left knee with a meniscus tear, but that he experienced minimal symptoms prior to the accepted July 24, 2020 employment incident. He diagnosed left knee pain with contusion and a possible meniscus tear. However, Dr. Kubiak did not provide an opinion on the issue of causal relationship. Likewise, in a work status note and a Form CA-17 of even date, a Form OWCP-5c dated August 19, 2020, and medical reports dated September 11 and 15, 2020, he diagnosed left knee contusion and a left knee medial meniscus tear and provided work restrictions, without addressing the issue of causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹⁸ Therefore, evidence is also insufficient to establish appellant’s claim.

Appellant also submitted a July 24, 2020 x-ray and an August 22, 2020 MRI scan of the left knee. However, the Board has explained that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁹ As such, they are insufficient to establish causal relationship.

The remaining medical evidence of record consists of a July 28, 2020 report by an unidentifiable health care provider, indicating that appellant was seen that day at urgent care. The

¹⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). See *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹⁶ *O.N.*, Docket No. 20-0902 (issued May 21, 2021); *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

¹⁷ *S.C.*, Docket No. 20-0492 (issued May 6, 2021); *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

¹⁸ *R.O.*, Docket No. 20-1243 (issued May 28, 2021); *P.B.*, Docket No. 20-1602 (issued May 26, 2021).

¹⁹ *R.O.*, *id.*; *V.L.*, Docket No. 20-0884 (issued February 12, 2021).

Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.²⁰ Thus, this letter is also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a left knee condition causally related to the accepted July 24, 2020 employment incident, the Board finds that he has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted July 24, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 1, 2020 decision of the Office of Workers Compensation Programs is affirmed.

Issued: January 31, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

²⁰ *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *T.D.*, Docket No. 20-0835 (issued February 2, 2021).